

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 261

June 14, 1995, 2:31 p.m.
Page S-8326 Temp. Record

TELECOMMUNICATIONS/Bell InterLATA Services, more conditions on

SUBJECT: Telecommunications Competition and Deregulation Act of 1995 . . . S. 652. Stevens motion to table the Kerrey amendment No. 1307.

ACTION: MOTION TO TABLE AGREED TO, 79-21

SYNOPSIS: As reported, S. 652, the Telecommunications Competition and Deregulation Act of 1995, will amend telecommunications laws and reduce regulations in order to promote competition in the telecommunications industry by eliminating barriers that prevent telephone companies, cable companies, and broadcasters from entering one another's markets. It will also permit electric utilities to enter the cable and telephone markets. Judicial control of telecommunications policy, including the "Modified Final Judgment" regime, will be terminated.

The Kerrey amendment would amend the requirements for a Bell Operating Company (BOC) or any affiliate or subsidiary of a BOC to provide interLATA (local area and transport area) services by mandating that it must reach interconnection agreements (instead of an agreement) that meet the interconnection checklist requirements in the bill. (The interconnection checklist contains those steps a BOC will have to take to give competitors access to its networks, facilities, rights-of-way, and other elements of its telephone service operations, in order to give those competitors equal access to customers within its operating area.) Those interconnection agreements would have to include agreements with telecommunications carriers capable of providing a substantial number of business and residential customers with telephone exchange or exchange access service.

During debate, Senator Stevens moved to table the Kerrey amendment. The motion to table is not debatable; however, some debate preceded the making of the motion. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

The Kerrey amendment adds an unreasonable restriction on BOC entry into the interLATA market. Under the terms of this bill,

(See other side)

YEAS (79)			NAYS (21)		NOT VOTING (0)	
Republicans (53 or 98%)	Democrats (26 or 57%)		Republicans (1 or 2%)	Democrats (20 or 43%)	Republicans (0)	Democrats (0)
Abraham	Helms	Baucus	Kyl	Akaka		
Ashcroft	Hutchison	Biden		Bingaman		
Bennett	Inhofe	Breaux		Boxer		
Bond	Jeffords	Bryan		Bradley		
Brown	Kassebaum	Bumpers		Conrad		
Burns	Kempthorne	Byrd		Dodd		
Campbell	Lott	Daschle		Feingold		
Chafee	Lugar	Dorgan		Graham		
Coats	Mack	Exon		Inouye		
Cochran	McCain	Feinstein		Kerrey		
Cohen	McConnell	Ford		Lautenberg		
Coverdell	Murkowski	Glenn		Leahy		
Craig	Nickles	Harkin		Levin		
D'Amato	Packwood	Heflin		Lieberman		
DeWine	Pressler	Hollings		Murray		
Dole	Roth	Johnston		Pell		
Domenici	Santorum	Kennedy		Reid		
Faircloth	Shelby	Kerry		Robb		
Frist	Simpson	Kohl		Simon		
Gorton	Smith	Mikulski		Wellstone		
Gramm	Snowe	Moseley-Braun				
Grams	Specter	Moynihan				
Grassley	Stevens	Nunn				
Gregg	Thomas	Pryor				
Hatch	Thompson	Rockefeller				
Hatfield	Thurmond	Sarbanes				
	Warner					

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

for a BOC to enter the interLATA market it will have to have entered into an agreement with a telecommunications competitor that meets the interconnection requirements contained in the bill checklist. In other words, before it may provide long distance phone service, it must first allow local competition. Our colleagues fear that a BOC may subvert the intent of this requirement by entering into an agreement with a telecommunications provider that does not have the ability to exercise its rights under the agreement. They fear that a BOC may agree to compete with a company that is not capable of competing. However, they overlook two important facts. First, in section 251(g), the bill will also require local exchange carriers to give any company, on request, the same interconnection rights that it has given to another company. Thus, once a BOC has entered into one agreement with a company to allow it to interconnect, it has essentially agreed to let every other company that asks for it the same right to interconnect. Entering into an interconnection agreement with any company, however small, is an agreement to open up a market to local competition. Second, our colleagues overlook the fact that long distance companies will be actively involved in negotiations on opening up local markets. Those companies, which are capable of defending themselves, will make sure that the agreements that are negotiated will truly open up local markets before BOCs are allowed into long distance markets.

Though no useful benefit would derive from passing the Kerrey amendment, it would have two negative results. First, it would work against smaller companies that wish to provide local phone services. Bell companies would not want to negotiate with smaller companies on interconnection agreements, because gaining FCC approval for such agreements would not be enough to allow them to gain approval for providing long distance services. Therefore, the first companies that would be able to get signed agreements allowing them to provide local phone services would be large companies. Small companies could follow on to those agreements, but the big companies would get an unfair head start. Second, and more destructively, this amendment fails to recognize the unique nature of smaller markets. A subsidiary of a BOC in a rural area, for example, might wish to provide long distance services, but if no large-scale competitor were interested in signing an interconnection agreement this amendment would block its entry. It should be enough for such a subsidiary to open its local market; it should not have to prove it has a large, active competitor before it is allowed to provide long distance phone service.

Our colleagues fear that BOCs may only pretend to open their local markets in order to win approval to enter the long-distance market is unwarranted. Their solution to this non-existent problem is destructive. We therefore urge our colleagues to table the Kerrey amendment.

Those opposing the motion to table contended:

The goal of this bill is to promote competition in the telecommunications industry. To further that end, particular requirements have been placed on BOCs to make them open up their local phone markets before they may offer long distance phone service. Those requirements were put in place to guard against letting BOCs enter while they still have monopoly control over local phone service. If we let these companies enter while they still have monopoly control, they will have an unfair competitive advantage over other long distance providers. They will then quickly end up dominating the market. Instead of having competition in local service and long distance service, we will have monopoly, or oligopoly, service in both. The three requirements in this bill are that a BOC must provide long distance service through an affiliate, that it must open up its local market by signing an agreement with a company to open its market to that company, and that the FCC must determine that its entry is in the public interest. These requirements are not strong enough. The way the bill is written, a BOC could make an agreement to open up its market with a company that is not technically capable of offering real competition to the BOC. The FCC would approve that agreement if it met the checklist requirements. If the FCC then found that it was in the public interest to let the BOC provide long distance phone service (and it would not use the antitrust standards that are used by the Justice Department), the BOC could enter the long distance market while retaining its local phone monopoly.

To remedy this problem, we have offered the Kerrey amendment. The Kerrey amendment would change the requirement for a BOC to open its market by requiring it to sign more than one agreement with companies to allow local phone service competition, and by requiring at least one of those agreements to be with a company capable of providing significant competition. This straightforward approach would avoid all of the problems some Senators had with the earlier Thurmond and Dorgan amendments (see vote No. 250). Without increasing Government oversight, this amendment would guarantee that BOC's would give up their local monopoly power before offering long distance phone service. The amendment is meritorious, and we therefore oppose the motion to table it.